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OCT 28 2005

In re Application of:
Peter Ledel Gammel et al. : DECISION ON PETITION TO
Serial No.: 09/651,696 : WITHDRAW THE HOLDING
Filed: August 30, 2000 : OF ABANDONMENT
Attorney Docket No.: 18-47-1-57 :
:

This is a decision on the request for reinstatement filed on April 11, 2005. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on April 6, 2004. A Notice of Abandonment was mailed on March 8, 2005.

Petitioner asserts that a response to the Office action was timely filed on July 26, 2004. To support this assertion, petitioner has submitted a copy of the response (a transmittal sheet, an amendment, a revised abstract, a change of correspondence address, a petition for a one month extension of time, and an information disclosure statement) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on July 26, 2004.

A review of the application file record reveals that the response having been acknowledged on the stamped return postcard as being received in the PTO on July 26, 2004 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed March 8, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response filed with the petition is accepted since the response originally submitted is lost. However, it is noted that the fees for the one month extension of time and the

the information disclosure statement were charged to Deposit Account No. 121095 on July 28, 2004.

The Technical Support Staff will enter the response filed with the petition on April 11, 2005 into the Patent Application Locating and Monitoring System (PALM) and the examiner will prepare an action based upon that response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



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